STATE OF MICHIGAN

IN THE SUPREME COURT

THE PEOPLE OF THE
STATE OF MICHIGAN,

Plaintiff-Appellant,

vs.

CHARLES ALMONDO-MAURICE DUNBAR,

Defendant-Appellee.

SC File No. 150371

COA File No. 314877

Lower Court File No. 12-062736-FH
Muskegon County Circuit Court

_____/

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PLAINTIFF-APPELLANT'S SUPPLEMENT TO APPLICATION FOR LEAVE TO APPEAL UPDATING LAW REFERENCED IN ORIGINAL APPLICATION FOR LEAVE TO APPEAL

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One reason given by the People to reverse the Court of Appeals published decision in *People v Dunbar*, ___ Mich App ___; ___ NW2d ___; 2014 WL 4435838 (2014) (Supp Appendix A), is that a reasonable mistake of law can support a valid stop vis-à-vis the Fourth Amendment. Specifically noted in the People's application was the United States Supreme Court's grant of certiorari in *Heien v North Carolina*, 572 US ___; 134 S Ct 1872; 188 L Ed 2d 910 (2014), to examine whether a law enforcement officer's objectively reasonable mistake of law can support reasonable suspicion for an investigatory stop under the Fourth Amendment. There, the officer stopped the defendant's vehicle erroneously believing that North Carolina law required two working brake lights rather than just one.[1] The Supreme Court of North Carolina held that, notwithstanding this mistake of law, the stop was valid vis-à-vis the Fourth Amendment:

> After considering the totality of the circumstances, we conclude that there was reasonable, articulable suspicion to conduct the traffic stop of the Escort in this case. We are not persuaded that, because Sergeant Darisse was mistaken about the requirements of our motor vehicle laws, the traffic stop was necessarily unconstitutional. After all, reasonable suspicion is a "commonsense, nontechnical conception[] ... on which reasonable and prudent men, not legal technicians, act," *Ornelas*, 517 US at 695; 116 S Ct at 1661; 134 L Ed 2d at 918 (citations and internal quotation marks omitted), and the Court of Appeals analyzed our General Statutes at length before reaching its conclusion that the officer's interpretation of the relevant motor vehicle laws was erroneous. After considering the totality of the circumstances, we hold that Sergeant Darisse's mistake of law was objectively reasonable and that he had reasonable suspicion to stop the vehicle in which defendant was a passenger. Accordingly, we reverse the decision of the Court of Appeals and remand this case to that court for additional proceedings. [*State v Heien*, 366 NC 271, 283; 737 SE2d 351, 359 (2012).]

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[1] The North Carolina Court of Appeals held that only one brake light was required by statute and the Supreme Court of North Carolina "assume[d] that the Court of Appeals correctly held that [the] General Statutes require only one brake light and that not all originally equipped brake lights must function properly" "for purposes of [its] decision," because "the State of North Carolina … chose[] not to seek review of the Court of Appeals' statutory interpretation." *State v Heien*, 366 NC 271, 275; 737 SE2d 351, 354 (2012).

On December 15, 2014, the United States Supreme Court affirmed the North Carolina Supreme Court's decision in *State v Heien, supra,* in an 8-1 decision, holding that an objectively reasonable mistake of law can justify a stop vis-à-vis the Fourth Amendment and also upholding the North Carolina Supreme Court's decision that the mistake of law in that case was objectively reasonable, stating in part:

> The Fourth Amendment prohibits "unreasonable searches and seizures." Under this standard, a search or seizure may be permissible even though the justification for the action includes a reasonable factual mistake. An officer might, for example, stop a motorist for traveling alone in a high-occupancy vehicle lane, only to discover upon approaching the car that two children are slumped over asleep in the back seat. The driver has not violated the law, but neither has the officer violated the Fourth Amendment.
>
> But what if the police officer's reasonable mistake is not one of fact but of law? In this case, an officer stopped a vehicle because one of its two brake lights was out, but a court later determined that a single working brake light was all the law required. The question presented is whether such a mistake of law can nonetheless give rise to the reasonable suspicion necessary to uphold the seizure under the Fourth Amendment. We hold that it can. Because the officer's mistake about the brake-light law was reasonable, the stop in this case was lawful under the Fourth Amendment.
>
> * * *
>
> As the text indicates and we have repeatedly affirmed, "the ultimate touchstone of the Fourth Amendment is 'reasonableness.'" *Riley v California,* 573 US ——, —— (2014) (slip op, at 5) (some internal quotation marks omitted). To be reasonable is not to be perfect, and so the Fourth Amendment allows for some mistakes on the part of government officials, giving them "fair leeway for enforcing the law in the community's protection." *Brinegar v United States,* 338 US 160, 176; 69 S Ct 1302; 93 L Ed 1879 (1949). We have recognized that searches and seizures based on mistakes of fact can be reasonable. The warrantless search of a home, for instance, is reasonable if undertaken with the consent of a resident, and remains lawful when officers obtain the consent of someone who reasonably appears to be but is not in fact a resident. See *Illinois v Rodriguez,* 497 US 177, 183-186; 110 S Ct 2793; 111 L Ed 2d 148 (1990). By the same token, if officers with probable cause to arrest a suspect mistakenly arrest an individual matching the suspect's description, neither the seizure nor an accompanying search of the arrestee would be unlawful. See *Hill v California,* 401 US 797, 802-805; 91 S Ct 1106; 28 L Ed 2d 484 (1971). The limit is that "the mistakes must be those of reasonable men." *Brinegar, supra,* at 176.

But reasonable men make mistakes of law, too, and such mistakes are no less compatible with the concept of reasonable suspicion. Reasonable suspicion arises from the combination of an officer's understanding of the facts and his understanding of the relevant law. The officer may be reasonably mistaken on either ground. Whether the facts turn out to be not what was thought, or the law turns out to be not what was thought, the result is the same: the facts are outside the scope of the law. There is no reason, under the text of the Fourth Amendment or our precedents, why this same result should be acceptable when reached by way of a reasonable mistake of fact, but not when reached by way of a similarly reasonable mistake of law.

* * *

Here we have little difficulty concluding that the officer's error of law was reasonable. Although the North Carolina statute at issue refers to "*a* stop lamp," suggesting the need for only a single working brake light, it also provides that "[t]he stop lamp may be incorporated into a unit with one or more *other* rear lamps." N.C. Gen.Stat. Ann. § 20–129(g) (emphasis added). The use of "other" suggests to the everyday reader of English that a "stop lamp" is a type of "rear lamp." And another subsection of the same provision requires that vehicles "have all originally equipped rear lamps or the equivalent in good working order," § 20–129(d), arguably indicating that if a vehicle has multiple "stop lamp[s]," all must be functional.

The North Carolina Court of Appeals concluded that the "rear lamps" discussed in subsection (d) do not include brake lights, but, given the "other," it would at least have been reasonable to think they did. Both the majority and the dissent in the North Carolina Supreme Court so concluded, and we agree. See 366 N.C., at 282–283, 737 S.E.2d, at 358–359; *id.*, at 283, 737 S.E.2d, at 359 (Hudson, J., dissenting) (calling the Court of Appeals' decision "surprising"). This "stop lamp" provision, moreover, had never been previously construed by North Carolina's appellate courts. See *id.*, at 283, 737 S.E.2d, at 359 (majority opinion). It was thus objectively reasonable for an officer in Sergeant Darisse's position to think that Heien's faulty right brake light was a violation of North Carolina law. And because the mistake of law was reasonable, there was reasonable suspicion justifying the stop. [*Heien v North Carolina*, ___ US ___; ___ S Ct ___; ___ L Ed 2d ___; 2014 WL 7010684, * 2-3, 5-6, 9 (USSC No. 13-604, decided December 15, 2014). (Supp Appendix B, slip op, pp 1-2, 5-6, 12-13.]

In the instant case, MCL 257.225(2) provides:

A registration plate shall at all times be securely fastened in a horizontal position to the vehicle for which the plate is issued so as to prevent the plate from swinging. The plate shall be attached at a height of not less than 12 inches from

> the ground, measured from the bottom of the plate, in a place and position that is clearly visible. The plate shall be maintained free from foreign materials that obscure or partially obscure the registration information and in a clearly legible condition.

This statute had not been interpreted by any appellate court in this State when, on October 12, 2012, Muskegon County Sheriff's Deputies James Ottinger and Jason Van Andel stopped Defendant's older 1990s model Ford Ranger pickup truck in Muskegon Heights.

This stop occurred at approximately 1 a.m. (01/24/2013 Motion to Suppress ["M"] Tr, pp 6-8, 12-13, 22-23, 26.) The deputies were on Sixth Street at the intersection of Hackley and Sixth when they observed the pickup truck headed eastbound on Hackley. (M Tr, pp 7-8, 12, 29.) They turned left onto Hackley and followed the pickup truck, accelerating to catch up to it, and ran the license plate on the Law Enforcement Information Network (LEIN). (M Tr, pp 8, 13-14, 23.) Deputy Van Andel punched in the numbers on the plate, noting, however, that the first number was obstructed by the tow ball that was attached to the bumper. (M Tr, pp 8-9, 11, 15, 23, 25, 26.) At 1:03 a.m., Deputy Van Andel punched in the number "5" for the first number as a best guest as to what he and Deputy Ottinger could see. (M Tr, pp 8, 9, 23, 25, 28; People's motion exhibit 4 [LEIN printout].) LEIN came back that the plate was registered to a 2007 Chevrolet Equinox rather than a Ford Ranger. (M Tr, pp 8, 15, 23-24, 28-29; People's motion exhibit 4 [LEIN printout].) Accordingly, they stopped the pickup truck because it came back to a different vehicle and the plate was obstructed.[2] (M Tr, pp 9-10, 15, 16, 17-20, 23, 27.) After the stop, when approaching the vehicle, the license was observed and the first number on the plate was a "6" rather than a "5". (M Tr, pp 9-10, 16, 23-24.) The trial court confirmed from looking

[2] The deputies were being proactive. (M Tr, pp 14, 27.) They ran a lot of plates that night. They thought it was improper, but, in any event, if it was proper and only obstructed, they would "tell the person that they needed an unobstructed plate." (M Tr, pp 27, 29.)

at People's motion exhibit 1 that, "clearly it's either a 5 or 6 and the ball obscures the entire lower half of the digit." (M Tr, p 40.)

Four months after this stop was made, the Court of Appeals issued its unpublished per curiam opinion in *People of Canton Twp v Wilmot*, unpublished opinion per curiam of the Court of Appeals, issued March 7, 2013 (Docket No 305308); 2013 WL 951109 (Supp Appendix C). The majority opinion of Chief Judge MURPHY and Judge DONOFRIO explained that, "[h]ere, we tend to believe … that MCL 257.225(2) was implicated, where the subsection demands, in part, that a license plate be placed and positioned in a manner that makes it clearly visible. This is a fair reading of the statute." *Id*., 2013 WL 951109, * 5 (Supp Appendix C).

In discussing the issue, Chief Judge MURPHY and Judge DONOFRIO also viewed, favorably, the North Carolina Supreme Court's decision in *State v Heien*, stating that "[a] police officer's mistake of law concerning the proper construction of a motor vehicle statute, an alleged violation of which served as the basis to stop a vehicle, does not result in a constitutional violation if the mistake was objectively reasonable." *Wilmot*, 2013 WL 951109, * 5 (Supp Appendix C).

In reviewing the statute, the majority opinion of Chief Judge MURPHY and Judge DONOFRIO stated:

> A violation of MCL 257.225(2) constitutes a civil infraction as indicated in MCL 257.225(6). The parties' arguments are focused almost entirely on the applicability of the last sentence in § 225(2), which provides that a license "plate shall be maintained free from foreign materials that obscure or partially obscure the registration information, and in a clearly legible condition." The nature of the discourse is whether, as argued by defendant, this language applies only to problems related to the plate itself, i.e., foreign materials located directly on the plate or numerals and letters that are in a condition that render them illegible, or whether, as argued by the township, the language can apply to objects or obstacles located separate and apart from the plate itself that obscure or partially obscure the plate, such as the hitch ball. We, however, take note of the preceding sentence in § 225(2), which provides that a "plate shall be attached ... in a place and

> position which is clearly visible." If a hitch ball or some other object obscured a license plate, one could reasonably posit that the plate was not attached in a place or position that made it clearly visible. Clear visibility of the license plate seems to be the legislative goal. [*Wilmot*, 2013 WL 951109, * 3 (Supp Appendix C.]

However, they ultimately found it "it unnecessary to resolve the dispute regarding the proper construction of § 225(2)." *Wilmot*, 2013 WL 951109, * 3 (Supp Appendix C). Instead, "[r]egardless … whether MCL 257.225(2) was implicated under the circumstances presented …, [they held] that there is no basis to invoke the exclusionary rule, as there is no evidence of misconduct by the officer." *Wilmot*, 2013 WL 951109, * 4 (Supp Appendix C).

Judge GLEICHER's dissent in *Wilmot*, on the other hand, focused solely on the third sentence of MCL 257.225(2), interpreting it as "requir[ing] that drivers maintain the *plate* in a manner such that the *plate* "is free from foreign materials that obscure or partially obscure the registration information, and in a clearly legible *condition.*" *Wilmot*, 2013 WL 951109, * 9 (GLEICHER, J., dissenting [emphasis by Judge GLEICHER]).

A year and a half later, the Court of Appeals decided this case, *People v Dunbar*, and notwithstanding the fact that each judge on the *Dunbar* panel took a different view of the statute, the case was published.

Judge SHAPIRO found that the deputies had no legal basis to stop Defendant's pickup truck because the hitch ball obstruction did not violate the statute: "There is no evidence that *the plate* on defendant's truck was not maintained free of foreign materials. There is similarly no evidence that defendant's plate was dirty, rusted, defaced, scratched, snow-covered, or otherwise not 'maintained' in legible condition." *Dunbar* (Supp Appendix A, slip op, p 2 [Shapiro, J., opinion]). Thus, because "the officers did not have grounds to believe that defendant was in violation of MCL 257.225(2)," Judge SHAPIRO voted to "reverse the trial court's denial of

defendant's motion to suppress the" marijuana, cocaine, and handgun "seized during an automobile search conducted in violation of the Fourth Amendment." *Id*.

Judge O'CONNELL, on the other hand, did not conclude that the deputies were wrong in their view of the statute, but rather, he found the third sentence of the statute was "ambiguous", justifying a limiting construction:

> I concur with the result reached by the lead opinion. I write separately to state that MCL 257.225(2) is ambiguous. In fact, the statute casts a net so wide that it could be construed to make ordinary car equipment illegal, including equipment like bicycle carriers, trailers, and trailer hitches.… Accordingly, I would interpret MCL 257.225(2) to require only that the *license plate itself* be maintained free from materials that obscure the registration information and that the *plate itself* be in a clearly legible condition…. [Because] there is no evidence of any obstruction affixed to defendant's license plate[,] … there is no evidence that defendant was in violation of MCL 257.225(2), and the circuit court decision must be reversed. [*Dunbar* (Supp Appendix A, slip op, pp 1-2 [O'CONNELL, J., concurring]). Emphasis by Judge O'CONNELL.]

Thus, it was only because of a finding of ambiguity and the limited construction Judge O'CONNELL placed on the third sentence of MCL 257.225(2) as a consequence that caused him to vote to reverse the trial court's order that had denied Defendant's motion to suppress the marijuana, cocaine, and handgun evidence. However, because Judge O'CONNELL agrees that the statute could be interpreted as the deputies had understood it when they stopped Defendant's pickup truck, it is fair to say that if he were to apply the mistake-of-law analysis now established by *Heien v North Carolina*, he would agree that the deputies' view of the law in the field was objectively reasonable, and, therefore the stop was reasonable vis-à-vis the Fourth Amendment.

Finally, Judge METER in *Dunbar* dissented for the reason that the lead and concurring opinions of Judges SHAPIRO and O'CONNELL that "indicate that the pertinent phrase from MCL 257.225(2)—"[t]he plate shall be maintained free from foreign materials ... and in a clearly

legible condition"—concerns only items that touch the plate itself" "is not a reasonable reading of the statute":

> the lead and concurring opinions appear to indicate that the pertinent phrase from MCL 257.225(2)—"[t]he plate shall be maintained free from foreign materials ... and in a clearly legible condition"—concerns only items that touch the plate itself. This is not a reasonable reading of the statute. What if, for example, a person attached a sort of shield that entirely covered his or her license plate but did not touch the plate itself? Clearly the statute refers to keeping the plate free from obstructing materials. Random House Webster's Dictionary (1997) defines "maintain," in part, as "to keep in a specified state, position, etc." A license plate that is in otherwise perfect condition but that cannot be read because of obstructing materials is not being "kept" in "a clearly legible condition." [*Dunbar*, 2014 WL 4435838 (Supp Appendix A, dissent, slip op, p 2.)]

Although the correct interpretation of MCL 257.225(2) is raised in the People's original application for leave in *Dunbar*, this supplement is not intended to focus on the *correct* interpretation of the statute beyond establishing that the deputies' understanding of the statute was *objectively reasonable* when they decided to stop Defendant's pickup truck.

Basic rules of statutory interpretation provide that, "[w]hen interpreting a statute, [the Court's] primary goal is to ascertain and give effect to the Legislature's intent. The best indicator of that intent is the language used. When construing statutory language, [the Court] must read the statute as a whole and in its grammatical context, giving each and every word its plain and ordinary meaning unless otherwise defined." *In re Receivership of 11910 South Francis Rd (Price v Kosmalski)*, 492 Mich 208, 222; 821 NW2d 503 (2012) (footnotes omitted).

Neither Judge GLEICHER in *Wilmot* nor Judges SHAPIRO and O'CONNELL in *Dunbar* read MCL 257.225(2) as a whole. Instead, they each focused their attention on the *third* sentence of MCL 257.225(2), ignoring the *second* sentence completely. However, even if one could properly ignore the second sentence in MCL 257.225(2) when reaching the issue of the stop of Defendant's pickup truck, their respective interpretations and limited construction of the third

sentence of MCL 257.225(2) is flawed because of how each chooses to restrict the meaning of the term "maintain".

Specifically, the *third* sentence of the statute provides that "[t]he plate shall be maintained free from foreign materials that obscure or partially obscure the registration information and in a clearly legible condition." The term "maintain" means "**1**. to keep in existence or continuance; preserve; retain. **2**. to keep in due condition, operation or force; keep unimpaired. **3**. to keep in a specified state, position, etc." *The Random House College Dictionary* (rev ed, 1984), p 807. Judges SHAPIRO and GLEICHER erroneously restricted the term "maintain" to mean the physical state of the plate itself rather than to include "keep[ing the plate] unimpaired" or "to keep in a specified … position" "free from foreign materials that obscure or partially obscure the registration information and in a clearly legible condition."[3] This latter interpretation is consistent with Judge METER's reading of the statute in *Dunbar*, wherein he stated:

> Clearly the statute refers to keeping the plate free from obstructing materials. Random House Webster's Dictionary (1997) defines "maintain," in part, as "to keep in a specified state, position, etc." A license plate that is in otherwise perfect condition but that cannot be read because of obstructing materials is not being "kept" in a clearly legible condition. [*Dunbar*, 2014 WL 4435838 (Supp Appendix A, slip op, p 2. METER, J., dissenting).]

However, it is not appropriate to read the *third* sentence of the statute in a vacuum because "[w]hen construing statutory language, [the Court] must read the statute as a whole and in its grammatical context, giving each and every word its plain and ordinary meaning unless

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[3] Judge O'CONNELL is not included here because he found the statute ambiguous, meaning that he agrees that the statute can be read to reach the hitch ball obstruction in this case. He chose to give the statute a limited construction "to require only that the *license plate itself* be maintained free from materials that obscure the registration information and that the *plate itself* be in a clearly legible condition." *Dunbar* (Supp Appendix A, slip op, p 1 [O'CONNELL, J., concurring; emphasis by Judge O'CONNELL]).

otherwise defined." *In re Receivership*, 492 Mich at 222. When reading MCL 257.225(2) as a whole, the intent of the statute is to assure clear legibility and visibility of the plate. The *second* sentence establishes that "[t]he plate shall be attached at a height of not less than 12 inches from the ground, measured from the bottom of the plate, *in a place and position that is clearly visible*." MCL 257.225(2) (emphasis supplied.) This means that the plate must be positioned so that it is clearly visible, meaning, of course, so that its visibility is not blocked or obstructed. Here, the trial court found that the plate's visibility was blocked or obstructed by the trailer hitch ball.[4] Thus, it was not "in a place and position that is clearly visible."

The majority opinion of Chief Judge MURPHY and Judge DONOFRIO in *Wilmot* makes the correct observation that "[c]lear visibility of the license plate seems to be the legislative goal[,]" *Wilmot*, 2013 WL 951109, * 3 (Supp Appendix C). By failing to read the statute as a whole, Judges SHAPIRO and O'CONNELL in *Dunbar* and Judge GLEICHER in *Wilmot* narrowed the meaning of the term "maintain" to the *plate itself*—excluding the additional meanings of the term as "keep[ing the plate] unimpaired" or "to keep in a specified … position"—and thereby failed to recognize the significance of the second sentence of MCL 257.225(2)—i.e., "[t]he plate shall be attached at a height of not less than 12 inches from the ground, measured from the bottom of the plate, in a place and position that is clearly visible"—that establishes, convincingly, that clear legibility *and* visibility of the license plate *are* the dual legislative goals of the statute. Thus, by placing the hitch ball as it was, "one could reasonably posit that the plate was not attached in a place or position that made it clearly visible." *Wilmot*, 2013 WL 951109, * 3 (Supp Appendix C).

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[4] There should be no definite and firm conviction that a mistake was made in the trial court's findings of fact. *Tuttle v Dep't of State Hwys*, 397 Mich 44, 46; 243 NW2d 244 (1976) (a finding is clearly erroneous when, on review of the whole record, this Court is left with the definite and firm conviction that a mistake has been made).

The majority opinion of Chief Judge MURPHY and Judge DONOFRIO in *Wilmot* later explained that, "[h]ere, we tend to believe … that MCL 257.225(2) was implicated, where the subsection demands, in part, that a license plate be placed and positioned in a manner that makes it clearly visible. This is a fair reading of the statute." *Id.*, 2013 WL 951109, * 5. It noted Judge GLEICHER's dissenting view that, because there was no evidence that the defendant's plate was affixed in an unusual place or anywhere other than in a standard location (i.e., where the manufacturer intended it to be), and the district court found that the plate was not obscured by the hitch ball, suppression was necessary because the district court did not believe the officer. *Wilmot*, 2013 WL 951109, * 3 n 1. The majority opinion by Chief Judge MURPHY and Judge DONOFRIO, however, rejected Judge GLEICHER's view because it misses the mark:

> Th[e dissent's] argument, however, addresses whether there was evidence that the plate was in a place and position that made it clearly visible, thereby suggesting that if the evidence indisputably showed an obstruction, the penultimate sentence in § 225(2) would indeed apply. [Thus, t]he dissent's argument does not appear to constitute a purely legal interpretation of the statute that is at odds with our thoughts set forth above. [*Wilmot*, 2013 WL 951109, *3 n 1.]

Indeed, Judge GEICHER's dissent in *Wilmot* failed to read the language of the statute that says nothing about a "usual place" for a license plate. Had the Legislature decided that the manufacturer's designed location was adequate, it would have indicated this in the statute. Instead of saying that a "plate [had to be] … attached at a height of not less than 12 inches from the ground, measured from the bottom of the plate, in a place and position that is clearly visible", the Legislature would have said, "a plate shall be attached to the area designated by the manufacturer for the plate". Because that is not the language of the statute, the "usual place" paradigm of Judge GLEICHER's dissent in *Wilmot* is meaningless. The actual language of the statute recognizes that the so-called "usual place" is not always the "*clearly visible*" one. For

example, when one installs something that blocks the plate, such as a new after-market bumper or, as here, a hitch ball, the motorist must make sure his or her license "plate [is] … attached at a height of not less than 12 inches from the ground, measured from the bottom of the plate, *in a place and position that is clearly visible*." MCL 257.225(2) (emphasis supplied). Hence, although the manufacturer might provide an area for a plate, that location might not comply with the statutory requirement if the motorist later installs aftermarket items on the back of the vehicle. In such a case, the motorist is responsible for attaching the plate in a manner that makes it "clearly visible."

Thus, when reading the last two sentences of MCL 257.225(2) together as is required, *In re Receivership*, 492 Mich at 222, the intent of the statute is to require that the plate is in a location or position that makes it clearly visible. An obstruction affixed to the vehicle that does not satisfy this requirement violates the statute.

Again, this supplement discusses the *correct* interpretation of the statute only in the context of establishing that the deputies' understanding of the statute was *objectively reasonable* when they decided to stop Defendant's pickup truck. Thus, as is the case in *Heien v North Carolina*, even if it is determined that the statute was not violated here by the obstruction of the plate by the after-market trailer hitch ball, there is "little difficulty [in] concluding that the [deputies'] error of law was reasonable." *Heien*, 2014 WL 7010684, * 9 (Supp Appendix B, slip op, p 12). Accordingly, the Court of Appeals decision in *Dunbar* should be reversed.

Respectfully submitted,
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/s/ Charles F. Justian

Dated: December 17, 2014

By: CHARLES F. JUSTIAN (P35428)
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